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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,043	12/01/2000	Dan Anthony Balogh	4-4-4-18	2578

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LUCENT TECHNOLOGIES INC.  
DOCKET ADMINISTRATOR  
101 CRAWFORDS CORNER ROAD - ROOM 3J-219  
HOLMDEL, NJ 07733

EXAMINER

LY, NGHI H

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/728,043

Applicant(s)

BALOGH ET AL.

Examiner

Nghi H. Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 09 May 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamalainen et al (US 5,802,465) in view Kumar et al (US 6,418,148).

Regarding claim 1, Hamalainen teaches a method of sharing supplemental channel resources (see abstract) comprising the steps of: receiving a data notify request (see column 3 lines 1-5 and column 6 lines 21-23), and prospectively assigning currently unavailable supplemental channel resources to

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support a future supplemental channel for a user associated with the received data notify request (see column 12 lines 30-35). Hamalainen does not specifically disclose the received data notify request if the data notified request was received during an open assignment state.

Kumar teaches the received data notify request if the data notified request was received during an open assignment state (see column 14 lines 48-49 and column 14 lines 54-58, also see column 15 lines 49-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Kumar into the system of Hamalainen in order to allocate the available resources to multiple data users accounting for fairness and efficiently.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turina et al (US 6,097,717) in view Kumar et al (US 6,418,148).

Regarding claim 1, Turina et al (US 6,097,717) teaches a method of sharing supplemental channel resources (see abstract) comprising the steps of: receiving a data notify request (see column 2 lines 40-55), and prospectively assigning currently unavailable supplemental channel resources to support a future supplemental channel for a user associated with the received data notify request (see column 2 lines 33-39). Turina does not specifically disclose the received data notify request if the data notified request was received during an open assignment state.

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Kumar teaches the received data notify request if the data notified request was received during an open assignment state (see column 14 lines 48-49 and column 14 lines 54-58, also see column 15 lines 49-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Kumar into the system of Turina in order to allocate the available resources to multiple data users accounting for fairness and efficiently.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Odenwalder (US 6,173,007) teaches high-data-rate supplemental channel for CDMA telecommunication system.

b. Ko (US 6,144,856) teaches reserved channel allocating method in mobile radio communication system.

c. Veerasamy (US 6,208,865) teaches cellular telephone system which increases efficiency of reserved channel usage.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703) 605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703) 308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Nghi H. Ly



June 12, 2003



WILLIAM TROST  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600